

CITY COUNCIL REPORT



Meeting Date: February 26, 2013
 General Plan Element: *Land Use*
 General Plan Goal: *Create a sense of community through land uses*

ACTION

El Rancho
19-UP-2012

Request to consider the following:

1. Adopt Resolution No. 9326 authorizing Development Agreement Contract No. 2013-034-COS, to allow Live Entertainment located at 3030 N. 68th Street.
2. Find that the Conditional Use Permit criteria have been met, and adopt Resolution No. 9321 approving a Conditional Use Permit for Live Entertainment at an existing 2,600 +/- square-foot restaurant located at 3030 N. 68th Street with Central Business District (C-2) zoning.

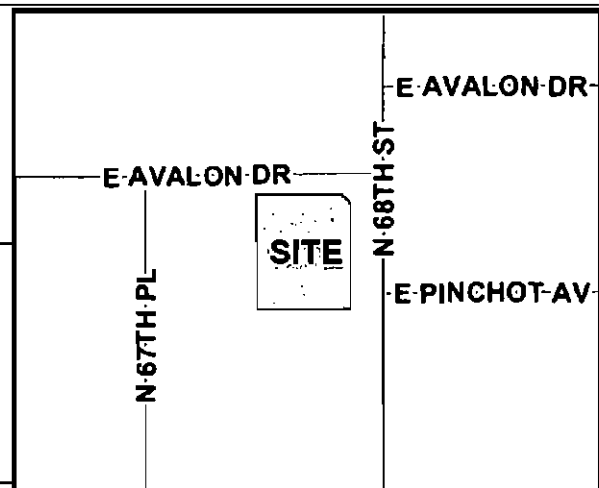
OWNER

Margarita Marris (JM LLC.)
 4317 E. Acoma Drive
 Phoenix AZ 85031

APPLICANT CONTACT

El Rancho
 Rosario Cortez
 602-460-3131

LOCATION



3030 N. 68th Street (Southwest corner of E. Avalon Drive and N. 68th Street).

BACKGROUND

General Plan

The General Plan Land Use Element designates the property within the Mixed-Use Neighborhoods Land Use Designation. Mixed-use neighborhoods are located in areas with strong access to multiple modes of transportation and major regional access and services, and have a focus on human scale development. These areas could accommodate higher density housing combined with

complementary office or retail uses or mixed-use structures with residential above commercial or office.

Character Area Plan

The site is located within the area identified as the South Scottsdale Character Area plan. The area covered by the Southern Scottsdale Character Area Plan has a variety of uses, featuring residential, commercial, and automobile oriented uses. Each of these areas currently has specific zoning requirements applicable to that area or use.

Zoning

The site is zoned Central Business District (C-2). The Central Business zoning district allows for live entertainment subject to a Conditional Use Permit.

The Central Business District (C-2) is intended to permit all uses permitted in the C-1 Neighborhood Commercial District (which surround the site to the north, west, and south), plus commercial activities designed to serve the community. This district includes uses usually associated with the central business district and shopping facilities which are not ordinarily compatible with residential development. C-2 zoned properties can be found in most commercial areas in Southern Scottsdale.

In September of 1996, the City Council Approved cases 30-ZN-1996 and 33-UP-1996, which rezoned the subject property from the Neighborhood Commercial District (C-1), to Central Business District (C-2); and they approved a Conditional Use Permit (CUP) for a restaurant with a micro-brewery. The previously mentioned cases were accompanied by a Development Agreement (Contract Number 96-0154), which excluded some uses allowed within the C-2 zoning category; one of them being the Live Entertainment use allowed with a CUP.

In November of 1996, the owner returned to the City Council for approval of a proposed amendment to the previously approved Development Agreement (96-0154). The proposed amendment to the Development Agreement (96-0154A) would allow Live Entertainment as a use permitted with a CUP. The case was presented as a revision to cases 30-ZN-1996 and 33-UP-1996, but the Development Agreement (96-0154A) was never recorded.

Context

The subject property is located at the southwest corner of E. Avalon Drive and N. 68th Street. The site is zoned Central Business District (C-2) and is surrounded by Neighborhood Commercial District (C-1) zoning to the north, west, and south. There is residential (R1-7) zoning located to the east of this site. Please see context graphics.

Key Items for Consideration

- Live Entertainment Conditional Use Permit Criteria
- Staff has received some correspondence in expressing concerns with the proposed Conditional Use Permit for Live Entertainment (see Attachment #8).
- Planning Commission heard this case on January 23, 2013, and recommended approval with a unanimous vote of 7-0.

Other Related Policies, References:

General Plan

Zoning Ordinance

33-UP-1996, 30-ZN-1996, 131-LL-2011, and Development Agreement # 960154

APPLICANTS PROPOSAL

Goal/Purpose of Request

The applicant's request is to provide live entertainment as part of the restaurant use. The live entertainment will be ancillary to the primary restaurant use, to occur during full menu service with less than 5% of the gross floor area devoted to the performance area. The Conditional Use Permit is intended to allow for small bands. The request also includes amending a previously approved Development Agreement (#96-0154) to allow for live entertainment.

Development Information

- Existing Use: restaurant
- Proposed Use: restaurant with live entertainment
- Buildings/Description: Existing one-story building
- Parking Required: 18 spaces
- Parking Provided: 23 spaces
- Floor Area: 2,600 +/- square feet

IMPACT ANALYSIS

Land Use

The proposed live entertainment use will be ancillary to the existing restaurant, which has been located at the site for 2 years. The restaurant use is compatible with the surrounding area. There are several commercial businesses located along the N. 68th Street corridor, south, to E. Thomas Road.

In 2011, the City Council approved a liquor license for the subject El Rancho restaurant site. The approved liquor license did not require an amendment to the Development Agreement.

Conditional Use Permit

Conditional Use Permits, which may be revocable, conditional, or valid for a specified time period, may be granted only when expressly permitted after the Planning Commission has made a recommendation and City Council has found as follows:

- A. That the granting of such Conditional Use Permit will not be materially detrimental to the public health, safety or welfare. In reaching this conclusion, the Planning Commission and the City Council's consideration shall include, but not be limited to, the following factors:
 1. Damage or nuisance arising from noise, smoke, odor, dust, vibration or illumination.

- **There are no impacts anticipated arising from noise, smoke, odor, dust, vibration or illumination. All live entertainment will occur indoors within the existing restaurant and during the same hours of operation as the restaurant.**
2. Impact on surrounding areas resulting from an unusual volume or character of traffic.
 - **Parking for the proposed site requires 18 spaces, 23 spaces are provided.**
 - **The proposed live entertainment use is not anticipated to impact existing traffic in the area. The live entertainment use will be ancillary to the existing restaurant use.**
- B. The characteristics of the proposed conditional use are reasonably compatible with the types of uses permitted in the surrounding areas.
- **The site is surrounded by a mix of various retail, service, and residential uses. The proposed live entertainment use as an ancillary use to the existing restaurant is reasonably compatible with the existing uses in the surrounding area**
- C. The additional conditions specified in Section 1.403, as applicable, have been satisfied. The proposal meets the provisions for Live Entertainment as identified in Zoning Ordinance Section 1.403.J., including:
1. The applicant has provided and obtained City approval of a written Security and Maintenance Plan.
 - **The applicant has provided a Security, Maintenance and Operations Plan that has been reviewed and approved by the Scottsdale Police Department.**
 2. The applicant has provided written evidence that sound resulting from indoor live entertainment will be contained within the building, except where external speakers are permitted as part of the Conditional Use Permit approval to broadcast the live entertainment.
 - **All live entertainment will occur within the existing restaurant building. No external speakers are requested or permitted.**
 3. The applicant has provided a lighting plan that addresses exterior lighting on the property, in accordance with Article VII. of the Zoning Ordinance and the Security and Maintenance Plan requirements.
 - **The site has existing parking lot lighting and building lighting that is compliance with Section 7.600 of the Zoning Ordinance. No proposed changes to the existing lighting.**
 4. The applicant has provided a floor plan which identifies the areas for the primary use and for accessory functions, including but not limited to areas for performances
 - **The applicant provided a floor plan which identifies the areas for the primary use and for accessory functions.**
 5. If the establishment is not in the Downtown Area, and access to the establishment is

from a street other than one classified by the Transportation Master Plan as minor collector or greater, the applicant shall provide a traffic analysis which complies with the City's transportation guidelines. The traffic analysis shall demonstrate that the level of service on all streets accessed by the use meets the City's standards

- **Access to the site is provided by a street that is classified as a minor collector, therefore, a traffic analysis was not required.**
6. If the Zoning Administrator determines that a parking study is necessary the applicant shall provide a study which complies with the City's requirements.
 - **The Zoning Administrator has determined that a parking study is not required.**
 7. The owner shall provide any additional information required by the Zoning Administrator to evaluate the impacts of the proposed use upon the area.
 - **No additional information has been required by the Zoning Administrator.**
 8. All building openings such as doors, windows and movable wall panels shall be closed but not locked. However, doors and service windows may be opened temporarily to allow passage
 - **The applicant has agreed to this requirement, and the proposed live entertainment will occur within the existing restaurant building with all service doors and windows being closed.**
 9. No external speakers used for live entertainment or outdoor live entertainment activities will be permitted on the premises of a use, which is located within 500 feet of a residential district shown on Table 4.100.A
 - **All live entertainment will occur within the existing restaurant building. No external speakers are requested or permitted.**
 10. The owner and operator shall comply with all plans approved as part of the Conditional Use Permit.
 - **The applicant has agreed to comply with all plans approved as provided herein.**
 11. All patron entrances shall be illuminated in accordance with the Building Code and the exterior lighting plans approved by the Development Review Board.
 - **The site has existing building lighting that is compliance with the Building Code and case 137-DR-1996. There are no proposed changes to the existing lighting**
 12. Noise generated from the live entertainment shall conform to the City's Noise Ordinance
 - **The noise generated by the live entertainment shall be limited to inside the restaurant and will conform to the City's Noise Ordinance.**

Water/Sewer

The site has existing water and sewer services that are adequate to serve the existing restaurant. The proposed live entertainment use is considered ancillary to the existing restaurant use. No impacts are anticipated to the existing water and sewer services of the area.

Public Safety

The applicant has submitted a Security, Maintenance and Operations Plan for review and approval by the Scottsdale Police Department. No impacts are anticipated as a result of the proposed live entertainment use to existing police or fire services in the area.

Community Involvement

The applicant notified property owners within 750 feet of the site. In addition, the applicant held two open houses regarding the proposed Live Entertainment Conditional Use Permit on July 23rd and 25th, 2012. No concerns were received by the applicant at the open houses.

The city also notified all property owners within 750 feet of the site. Staff received a voicemail in concern of an incorrect date provided on the open house sign. Staff provided the resident with the applicant's contact information; and the applicant states in their community involvement report (Attachment #8) that the two open houses were in direct response to the error made on the sign.

Staff has also received email correspondence in regards to the requested CUP. The emails express concerns with noise in the future; due to experiences with live music noise in the past. Please see Attachment #8 for provided emails. After the January 23, 2013, Planning Commission, staff received a phone call (and subsequent emails) from the owner of the Southwest Dental Group; and an employee who lives in the area (see Attachment #12).

OTHER BOARDS & COMMISSIONS

Planning Commission

Planning Commission heard this case on February 26, 2013, and found that the Conditional Use Permit criteria have been met and recommended approval by a vote of 7-0.

Staff Recommendation to Planning Commission

Staff recommended that the Planning Commission find that the Conditional Use Permit criteria for Live Entertainment have been met, and make a recommendation to City Council for approval per the attached stipulations.

OPTIONS & STAFF RECOMMENDATION

Recommended Approach:

1. Adopt Resolution No. 9326 authorizing Development Agreement Contract No. 2013-034-COS, to allow Live Entertainment located at 3030 N. 68th Street.
2. Find that the Conditional Use Permit criteria have been met, and adopt Resolution No. 9321 approving a Conditional Use Permit for Live Entertainment at an existing 2,600 +/- square-foot restaurant located at 3030 N. 68th Street with Central Business District (C-2) zoning, subject to the attached stipulations.

RESPONSIBLE DEPARTMENTS

Planning, Neighborhood and Transportation

Current Planning Services

STAFF CONTACTS

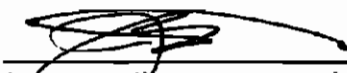
Jesus Murillo

Planner

480-312-7849

E-mail: jmurillo@scottsdaleAZ.gov

APPROVED BY



Jesus Murillo, Report Author

Date 2/11/2013



Tim Curtis, AICP, Current Planning Director
480-312-4210, tcurtis@scottsdaleaz.gov

Date 2/12/2013



Randy Grant, Administrator
Planning, Neighborhood and Transportation
480-312-2664, rgrant@scottsdaleaz.gov

Date 2/12/13

ATTACHMENTS

1. Resolution No. 9326
2. Development Agreement Contract No. 2013-034-COS
3. Resolution No. 9321
 - Exhibit 1. Context Aerial
 - Exhibit 2. Stipulations
 - Exhibit A to Exhibit 2: Site Plan
 - Exhibit 3. Additional Criteria
4. Applicant's Narrative
5. Aerial Close-Up
6. General Plan Map
7. Zoning Map
8. Citizen Involvement
9. Neighborhood Correspondence
10. City Notification Map
11. January 23, 2013 Planning Commission Minutes
12. Neighborhood Correspondence (after the January 23, 2013, Planning Commission hearing)

RESOLUTION NO. 9326

A RESOLUTION OF THE CITY OF SCOTTSDALE, ARIZONA,
AUTHORIZING THE MAYOR TO EXECUTE DEVELOPMENT
AGREEMENT NO. 2013-034-COS FOR PROPERTY GENERALLY
LOCATED AT 3030 N. 68TH STREET.

WHEREAS, A.R.S. § 9-500.05 authorizes the City to enter into development agreements with persons having an interest in real property located in the City; and

WHEREAS, it is in the best interest of the City and owner to enter into Development Agreement No. 2013-034-COS to amend Development Agreement No. 96-0154 to allow Live Entertainment on property located at 3030 N. 68th Street; and

WHEREAS, this Development Agreement No. 2013-034-COS is consistent with the portions of the City's general plan applicable to the property on the date this Agreement is executed.

NOW, THEREFORE, LET IT BE RESOLVED, by the Council of the City of Scottsdale, as follows:

Section 1. That Mayor W.J. "Jim" Lane is authorized to execute Development Agreement No. 2013-034-COS after it has been executed by all other parties.

Section 2. That the City Clerk is hereby directed to record Development Agreement No. 2013-034-COS with the Maricopa County Recorder within ten (10) days of its execution by the Mayor.

PASSED AND ADOPTED by the Council of the City of Scottsdale, Arizona, this 26th day of February, 2013.


ATTEST:

CITY OF SCOTTSDALE, an Arizona
Municipal Corporation

By: _____
Carolyn Jagger
City Clerk

By: _____
W.J. "Jim" Lane
Mayor

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY

By:  _____
Bruce Washburn, City Attorney
By: Joe Padilla, Senior Assistant City Attorney

When Recorded Return to:

One Stop Shop Records
The City of Scottsdale
7447 E. Indian School Road, Suite 100
Scottsdale, AZ 85251

Agreement No. 2013-034-COS
(Reso. No. 9326)

FIRST AMENDMENT TO DEVELOPMENT AGREEMENT

This First Amendment to Development Agreement No. 96-0154 (the "Agreement") is entered into the _____ day of _____, 2013, by and between JM, Inc., an Arizona corporation ("Developer"), and the City of Scottsdale, Arizona, an Arizona municipal corporation ("City").

RECITALS

A. Arizona Revised Statutes § 9-500.05 authorizes the City to enter into a Development Agreement with a landowner or any other person having an interest in real property located in the City.

B. The Developer's predecessor in interest voluntarily entered into a Development Agreement No. 96-0154 (the "Original Development Agreement") to provide for the limitation of uses on real property located within the boundaries of the City for the property described in Exhibit 1 attached hereto.

C. The Developer has acquired the property depicted on Exhibit 1 to develop the property with a restaurant use including having live entertainment as an ancillary use to the primary restaurant use.

D. That under Exhibit A to the Original Development Agreement, live entertainment was not a permitted use on the property.

E. Due to changing economic conditions, the City and Developer have now mutually determined that the purpose of the original Development Agreement can better be achieved and economic vitality beneficial to the City and Developer can be

encouraged by amending original Development Agreement No. 96-0154 by deleting the original Exhibit "A" and replacing it with Schedule "1" .

F. This Amendment is consistent with the portions of City's General Plan, any Specific Plan and Character Area Plan applicable to the Property on the date this Agreement is executed.

G. Developer and City acknowledge and agree that the use of the Property as permitted under Schedule "1" pursuant to this Amendment will benefit the City and its residents.

H. The City's governing body has authorized execution of this Amendment by Resolution No. 9326.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing and the mutual promises and representations contained herein, the Developer and the City agree as follows:

1. Recitals. The recitals set forth above are hereby incorporated by reference.

2. Interest of Owners. The Developer warrants that it is the fee title owner of the Property depicted on Exhibit 1 and that the Property is located within the municipal limits of the City.

3. Changes to Exhibits. The following changes are made regarding Exhibit A to the Original Agreement:

Exhibit A to the Original Agreement is hereby deleted and replaced with Schedule "1" attached to this First Amendment and incorporated herein by reference.

4. Miscellaneous. The parties also agree as follows:

4.1 Recordation. This Amendment shall be recorded in the official records the county recorder's office in Maricopa County, Arizona, no later than ten (10) days after execution by all parties.

4.2 No Further Amendment. Except as expressly amended by specific provisions of this Amendment, the Original Agreement and the parties' respective rights and obligations related to the Original Agreement are not affected by this Amendment.

4.3 Integration. This Amendment constitutes the entire agreement between the parties with respect to amending the Original Agreement and supersedes any prior agreement, understanding, negotiation, draft agreements, discussion outlines,

FIRST AMENDMENT TO DEVELOPMENT AGREEMENT
Agreement No. 2013-034-COS

correspondence and memoranda or representation regarding amending the Original Agreement.

4.4 Notices. Any and all notices, filings, consents, approvals and other communications required or permitted hereunder shall be valid if given in writing and sent by personal delivery, or registered or certified mail, return receipt requested, postage prepaid, addressed as follows:

If to the City: Planning & Neighborhood Services
 7447 East Indian School Road, Suite 100
 Scottsdale, AZ 85251

With a copy to: City Attorney
 Scottsdale City Attorney's Office
 3939 N. Drinkwater Blvd.
 Scottsdale, AZ 85251

If to JM, Inc.: Margarita Marris
 4317 E. Acoma Drive
 Phoenix AZ 85031

or to such other addresses as the Parties may designate in writing and deliver in a like manner. Any such change of address Notice shall be given at least ten (10) days before the date on which the change becomes effective. Notices given by mail are deemed delivered seventy-two (72) hours following deposit in the U.S. Postal Service.

EXECUTED as of the date first given above.

JM, Inc., an Arizona corporation,

By: _____
Margarita Marris

Its: _____

THE CITY OF SCOTTSDALE:
an Arizona municipal corporation


ATTEST:

By: _____
Carolyn Jagger, City Clerk

By: _____
W. J. "Jim" Lane, Mayor

FIRST AMENDMENT TO DEVELOPMENT AGREEMENT
Agreement No. 2013-034-COS

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY

By: 
Bruce Washburn, City Attorney
By Joe Padilla, Sr. Assistant City Attorney

STATE OF ARIZONA)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me this _____ day of _____, 2013, by W. J. "Jim" Lane, Mayor of the City of Scottsdale, Arizona, a municipal corporation.

Notary Public

My Commission Expires: _____

STATE OF ARIZONA)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me this _____ day of _____ 2013, by Margarita Marris, the _____ of JM, Inc., an Arizona corporation

Notary Public

My Commission Expires: _____

EXHIBIT 1

The land referred to in this Commitment is situated in the City of Scottsdale, County of Maricopa, State of Arizona and is described as follows:

Lot 12 and the East half of Lot 11, OASIS PLAZA, according to the plat of record in the office of the Maricopa County Recorder, in Book 98 of Maps, page 39.

Sec. 5.1400.(C-2) CENTRAL BUSINESS DISTRICT.

Sec. 5.1401.Purpose.

This district is intended to permit all uses permitted in the (C-1) neighborhood commercial district plus commercial activities designed to serve the community. This district includes uses usually associated with the central business district and shopping facilities which are not ordinarily compatible with residential development.

Sec. 5.1402. Approvals required.

No structure or building shall be built or remodeled upon land in the C-2 district until Development Review [Board] approval has been obtained as outlined in article I, section 1.400 hereof.

Sec. 5.1403. Use regulations.

A. *Uses permitted.* Buildings, structures, or premises shall be used and buildings and structures shall hereafter be erected, altered or enlarged only for the following uses:

1. Business and professional services.
 - a. Business and professional offices.
 - b. Business schools.
 - c. Hospital for animals including boarding and lodging provided that there are no open kennels maintained and provided all activities will be conducted in soundproof buildings.
 - d. Medical or dental offices including laboratory.
 - e. Museum.
 - f. Optician.
 - g. Municipal uses.
 - h. School, private, operated as a commercial enterprise.
 - i. Studio for professional work or teaching of any form of commercial or fine arts.
2. Residential.
 - a. Dwelling units physically integrated with commercial establishments (limited to one (1) dwelling unit for each business establishment).
3. Retail sales.
 - a. Antique store.

- b. Appliance store.
- c. An gallery.
- d. Automobile parts store.
- e. Bakery.
- f. Bars and cocktail lounges without live entertainment.
- g. Bicycle store.
- h. Bookstore.
- i. Camera store.
- j. Candy store.
- k. Carpet and floor covering store.
- l. Clothing store.
- m. Craft shop conducted in conjunction with retail business which may include ceramics, mosaics, fabrics, jewelry, leather goods, silk screening, dress designing, sculpturing and wood carving.
- n. Department store.
- o. Drugstore.
- p. Electronic equipment store.
- q. Fabric store.
- r. Florist.
- s. Furniture store.
- ~~t. Gift store.~~
- u. Grocery store or supermarket.
- v. Gun shop.
- w. Hardware store.
- x. Hobby or toy store.

y. Home improvement store.

z. Ice cream store.

aa. Import store.

bb. Liquor store.

cc. Music store.

~~dd. Pawn shop.~~

Pet shop.

ff. Restaurants excluding drive-in or drive-through types.

gg. Sporting goods store.

hh. Stationery store.

u. Swimming pool supply store.

jj. Variety store.

kk. Restaurant with associated microbrewery where brewed beer is consumed only on premises and brewery occupies no more than fifteen (15) percent of the floor area of the establishment.

4. Services.

a. Appliance repair.

b. Bank.

c. Barber or beauty shop.

d. Bowling alley.

e. Broadcasting station and studio, radio or television excluding transmitting or receiving towers.

f. Clothes cleaning agencies and laundromats excluding industrial cleaning and dyeing plants.

g. Fitness studio.

h. Hotel, motel, and timeshare project

- i. Movie theater (indoor only).
 - j. Post office.
 - k. Printing, lithography, publishing or photostating establishment.
 - ~~l. Fraternities and sororities.~~
 - m. Shoe repair.
 - n. Taxidermist.
 - o. Telephone answering service.
 - ~~p. Turkish bath that may include masseur and/or masseuse.~~
5. Other uses.
- a. Accessory buildings.
 - b. Cellular communication facility; minor.
 - c. Churches and places of worship.
 - d. Day care center, if the drop off or outdoor play area is more than one hundred (100) feet from a residential district
 - e. Temporary buildings for uses incidental to construction work, to be removed upon completion or abandonment of construction work.
- B. Uses permitted by a conditional use permit.*
- ~~1. Adult uses (see section 2.298 for criteria).~~
 - 2. Automated carwash.
 - 3. Bus station, excluding overnight parking and storage of buses.
Cellular communication facility: major (see section 2.108 for criteria).
 - 5. Day care center, if the drop off or outdoor play area is within one hundred (100) feet from a residential district (see section 2.208 for criteria).
 - 6. Funeral home and chapel.
 - ~~7. Game center.~~

- ~~8. Gasoline service station (see section 2.208 for criteria).~~
- 9. Health studio.
- 10. Live Entertainment (see section 2.208 for criteria).
- 11. Plant nursery (see section 2.208 for criteria).
- ~~12. Pool hall.~~
- 13. Residential health care facility (see section 2.208 for criteria).
- 14. Teen dance center (see section 2.208 for criteria).
- 15. Internalized community storage (see section 2.208 for criteria).
- 16. Restaurant with associated microbrewery with limited wholesale and retail sales of the brewed product, where the floor area utilized for brewing, bottling and/or packaging occupies no more than thirty (30) percent of the floor area of the establishment
- 17. Seasonal art festival.

(Ord. No. 1851, § 1, 11-5-85; Ord. No. 1902, § 1, 9-2-86; Ord. No. 1971, § 1, 8-4-87; Ord. No. 2232, § 1, 6-6-89; Ord. No. 231L § 1, 8-21-90; Ord. No. 2394, § 1, 9-16-91; Ord. No. 2430, § 1, 1-21-92; Ord. No. 2470, § 1, 6-16-92; Ord. No. 2620, § 1, 8-2-94; Ord. No. 2858, § 1, 12-5-95)

Editor's note-The amendment to paragraph B above by Ord. Nos. 1851 and 1902 did not number subparagraphs. Numbers have been editorially supplied for consistency.

RESOLUTION NO. 9321

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SCOTTSDALE, MARICOPA COUNTY, ARIZONA, ADOPTING A CONDITIONAL USE PERMIT FOR LIVE ENTERTAINMENT LOCATED AT AN EXISTING 2,600+/- SQUARE-FOOT RESTAURANT LOCATED AT 3030 N. 68TH STREET WITH NEIGHBORHOOD COMMERCIAL (C-1) ZONING

WHEREAS, the Planning Commission held a public hearing on January 23, 2013; and

WHEREAS, the City Council, held a public hearing on February 26, 2013.

NOW, THEREFORE, LET IT BE RESOLVED, by the City Council of the City of Scottsdale, Maricopa County, Arizona, as follows:

Section 1. That the City Council finds:

- a) that the granting of this conditional use permit per stipulations set forth on Exhibit 2 will not be materially detrimental to the public health, safety or welfare based on, but not limited to, the following factors: damage or nuisance arising from noise, smoke, odor, dust, vibration or illumination and impact on surrounding areas resulting from an unusual volume or character of traffic;
- b) that the characteristics of the proposed conditional use are reasonably compatible with the types of uses permitted in the surrounding areas; and
- c) that compliance with the additional conditions for live entertainment, set forth on Exhibit 3, is required.

Section 2. That a description of the conditional use permit is set forth in Case No. 19-UP-2012. The property that is subject to the conditional use permit is shown on Exhibit 1 and the conditional use permit approval is conditioned upon compliance with all of the stipulations that are set forth in Exhibits 2 and 3. All exhibits are incorporated herein by reference.

PASSED AND ADOPTED by the Council of the City of Scottsdale, Maricopa County, Arizona this 26th day of February, 2013.

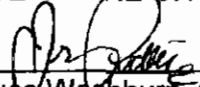
ATTEST:

CITY OF SCOTTSDALE, an Arizona
Municipal Corporation

By: _____
Carolyn Jagger
City Clerk

By: _____
W.J. "Jim" Lane
Mayor

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY

By:  _____
Bruce Washburn, City Attorney
By: Joe Padilla, Senior Assistant City Attorney



El Ranchero

Exhibit 1
Resolution No. 9321

19-UP-2012

Conditional Use Permit – Live Entertainment

Stipulations:

El Ranchero for

Case Number: 19-UP-2012

These stipulations are in order to protect the public health, safety, welfare, and the City of Scottsdale.

OPERATIONS

1. **CONFORMANCE TO THE CONCEPTUAL FLOOR PLAN.** The interior layout of the premises shall be in substantial conformance with the conceptual floor plan submitted with the city staff date of 9/17/12, attached as Exhibit A to Exhibit 2. Any proposed significant change to the conceptual floor plan as determined by the Zoning Administrator, shall be subject to additional action and public hearings before the Planning Commission and City Council.
2. **NO BAR USE.** This Conditional Use Permit is for live entertainment only, and a bar use is not approved as part of this request.
3. **HOURS OF LIVE ENTERTAINMENT.** The hours of the live entertainment for this establishment shall be limited to:

	Allowed Start of the Live Entertainment	To	Required End of the Live Entertainment
Sunday	12:00 PM	To	11:00 PM
Monday	5:00 PM	To	8:30 PM
Tuesday	5:00 PM	To	8:30 PM
Wednesday	5:00 PM	To	8:30 PM
Thursday	5:00 PM	To	8:30 PM
Friday	5:00 PM	To	8:30 PM
Saturday	12:00 PM	To	11:00 PM

4. **SECURITY, MAINTENANCE, AND OPERATIONS PLAN.** The live entertainment shall conform to the Security, Maintenance, and Operations Plan approved by, and on record with the City of Scottsdale's Police Department and the Planning, Neighborhoods, and Transportation Division. A copy of the approved Security, Maintenance, and Operations shall be maintained on site. Within 10 days after a request by the City Manager or designee, the owner shall provide an update of the Security, Maintenance, and Operations Plan to the Scottsdale Police Department and the Planning, Neighborhoods, and Transportation Division. At least ten (10) days before any operational change of the live entertainment, or any promotional event (excluding Special Events), that modifies the requirements or contents of the Security, Maintenance, and Operations Plan, the owner shall submit a revised Security, Maintenance, and Operations Plan to the Scottsdale Police Department and the Planning, Neighborhoods, and Transportation Division. Any revised Security,

Maintenance, and Operations Plan shall be subject to approval by the City of Scottsdale's Police Department and the Planning, Neighborhoods, and Transportation Division.

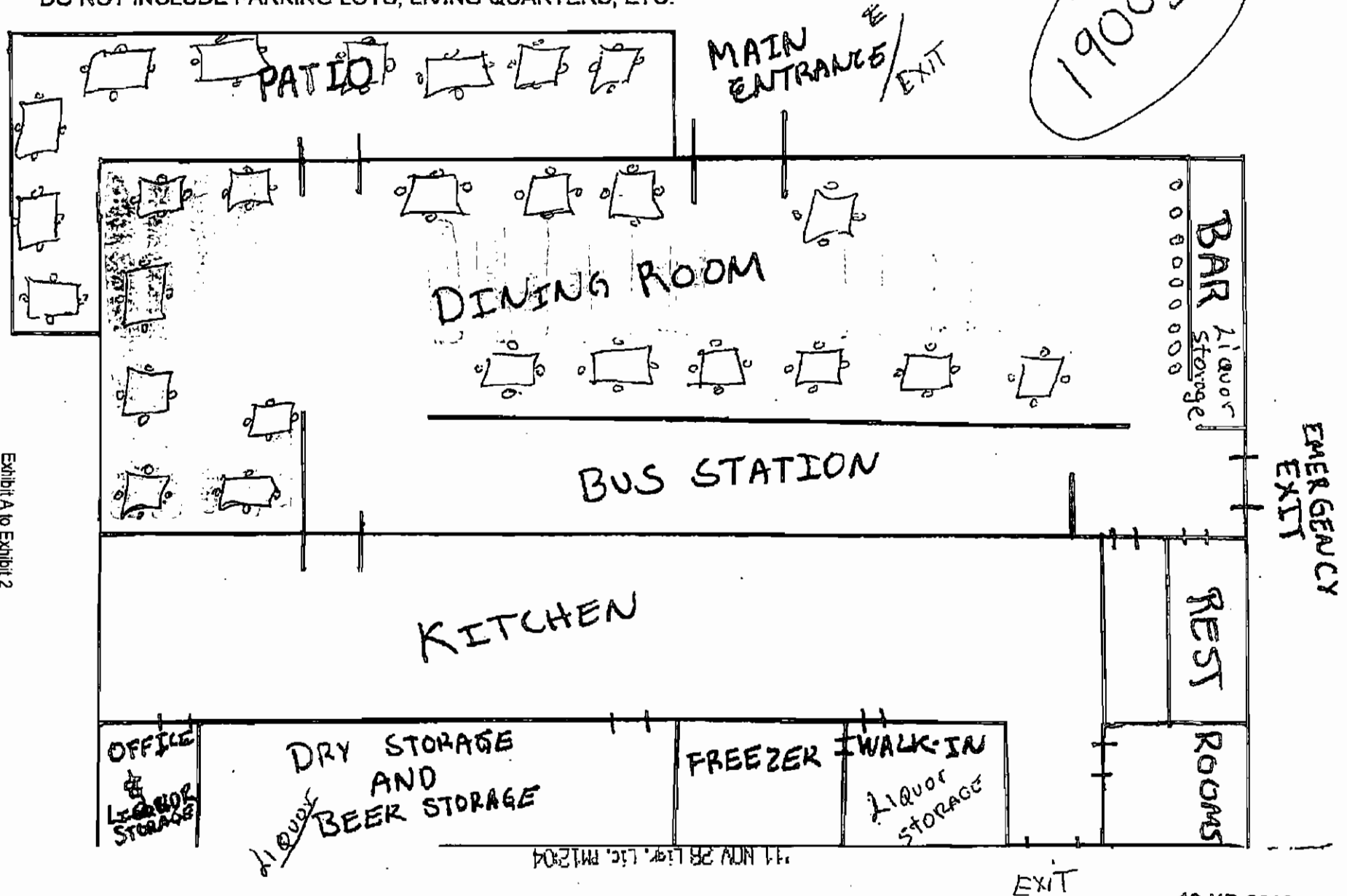
5. NOISE. In addition to the City's Noise Ordinance (Ordinance No. 3192, Article II, Chapter 19 of the Scottsdale Revised Code), noise generated from this use, including any speakers or other amplification equipment, shall not exceed ambient noise levels consistent to the use and the character of the area during hours of operation, as determined by the Zoning Administrator, or designee.
6. EXTERNAL SPEAKERS. External speakers are not permitted.
7. EXTERNAL DOORS. All building openings such as doors, windows and movable wall panels shall be closed but not locked. However, doors and service windows may be opened temporarily to allow passage.

ADMINISTRATIVE PROCESS

8. CONDITIONAL USE PERMIT ADMINISTRATIVE REVIEW. Within ten (10) days after a request by the Zoning Administrator or designee, the owner, shall submit a letter to the Zoning Administrator or designee demonstrating compliance with all stipulations. A deviation from any stipulations or change in the floor plan may be grounds for revocation of the Conditional Use Permit.
9. CHANGES IN OWNERSHIP. Within ten (10) days after a change in ownership, the owner shall provide notice to the Zoning Administrator in writing of any such ownership change.

3. The diagram below is the only area where spirituous liquor is to be sold, served, consumed, dispensed, possessed, or stored. Give the square footage or outside dimensions of the licensed premises.

DO NOT INCLUDE PARKING LOTS, LIVING QUARTERS, ETC.



ADDITIONAL CRITERIA FOR LIVE ENTERTAINMENT

K. Live entertainment.

1. The applicant has provided and obtained City approval of a written Security and Maintenance Plan.
2. The applicant has provided written evidence that sound resulting from indoor live entertainment will be contained within the building, except where external speakers are permitted as part of the Conditional Use permit approval to broadcast the live entertainment.
3. The applicant has provided a lighting plan that addresses exterior lighting on the property, in accordance with Article VII of the Zoning Ordinance and the Security and Maintenance Plan requirements.
4. The applicant has provided a floor plan which identifies the areas for the primary use and for accessory functions, including but not limited to areas for performances.
5. If the establishment is not in the Downtown Area, and access to the establishment is from a street other than one classified by the Transportation Master Plan as minor collector or greater, the applicant shall provide a traffic analysis which complies with the City's transportation guidelines. The traffic analysis shall demonstrate that the level of service on all streets accessed by the use meets the City's standards..
6. If the Zoning Administrator determines that a parking study is necessary the applicant shall provide a study which complies with the City's requirements.
7. The owner shall provide any additional information required by the Zoning Administrator to evaluate the impacts of the proposed use upon the area.
8. All building openings such as doors, windows and movable wall panels shall be closed but not locked. However, doors and service windows may be opened temporarily to allow passage.
9. No external speakers used for live entertainment or outdoor live entertainment activities will be permitted on the premises of a use which is located within 500 feet of a residential district shown on Table 4.100.A
10. The owner and operator shall comply with all plans approved as part of the Conditional Use Permit.
11. All patron entrances shall be illuminated in accordance with the Building Code and the exterior lighting plans approved by the Development Review Board.
12. Noise generated from the live entertainment shall conform to the City's Noise Ordinance.

**El Rancho Traditional Mexican Food and More
3030 N 68th St.
Scottsdale, Arizona**

Conditional Use Permit Narrative

El Rancho is applying for a Live Entertainment Conditional Use Permit from the hours of 5pm-8:30pm Monday thru Friday and 12pm-11pm on Saturday and 12pm-11pm on Sunday. The purpose of this license is to provide entertainment for the patrons that visit the restaurant. This permit will be strictly used to be able to provide a mariachi band along with karaoke on certain nights. The property is located at 3030 N. 68th St in Scottsdale and is zoned as C-1 "Neighborhood Commercial". There will be no structural changes to the facility as the live entertainment does not require expansion or additional space.

The proposed live entertainment will not impact the surrounding from unusual volume as all entertainment will be indoors (less than 15% space occupied by entertainment) and strictly used for a mariachi band that plays music for patrons and karaoke on certain nights. The following address the use permit criteria:

A. That the granting of such conditional use permit will not be materially detrimental to the public health, safety, or welfare, including but not limited to the following factors:

1. Damage or nuisance arising from noise, smoke, odor, dust, vibration, or illumination.

Response: Noise from the live entertainment will not have the above affects due to solid screen walls and lighting and ventilation that complies with the city's code requirement. Also, there will be no smoke odor, dust, vibration or illumination issues as they will not be used.

2. Impact on surrounding areas resulting from an unusual volume or character of traffic.

Response: Traffic from the use will not have an impact at this family restaurant.

B. The characteristics of the proposed conditional use are reasonably compatible with the types of uses permitted in the surrounding areas.

Response: The proposed conditional use is compatible with other surrounding business such as restaurants and bars that provide eating and drinking.

In addition, Section 1.403 (K) of the Zoning Ordinance specifies additional criteria for the Live Entertainment land use and is listed below:

1. The applicant has provided and obtained City approval of a written public safety plan.

Response: A public safety plan has been submitted and approved by the City of Scottsdale Police Department.

2. The applicant has provided written evidence that all sound resulting from business activities will be contained within the building, except where external speakers are permitted as part of the Conditional User permit and the Security and Maintenance Plan requirements.

Response: All business activities will be confined within the building. A karaoke machine and speakers will be provided on certain days and all noise will not penetrate outside the building

3. The applicant has provided a written lighting plan which addresses exterior lighting on and surrounding the property, in accordance with Section 7.600 of the Zoning Ordinance and with the Security and Maintenance Plan requirements.

Response: No changes have been made as the existing parking lot and building lighting comply with the Zoning Ordinance Section 7.600.

4. The applicant has provided a floor plan which identifies the area for the primary use and for ancillary functions, which include but are not limited to, patron dancing area and/or stages for performances.

Response: A floor plan addressing this concern accompanies this application.

5. If access to the establishment is from a street other than one classified by the Transportation Master Plan as minor collector or greater, or if the establishment is located within the Downtown Area and access to the establishment is located on a street classified by the Transportation Master Plan as a local street of greater, the applicant shall provide a traffic analysis which complies with the City's transportation guidelines. The traffic analysis shall demonstrate the level of service on all streets accessed by the use shall meet the City's standards.

Response: The location is on a major street and is accessed by a local commercial street less than a half a mile away.

6. If the Zoning Administrator determines that a study is necessary, the applicant shall provide a parking study which complies with the City's written guidelines.

Response: The Zoning Administrator has not determined that a parking study is required for this application.

7. The applicant has provided any additional information required by the Zoning Administrator to evaluate the impacts of the proposed use upon the area.

Response: There has been no additional information requested by the Zoning Administrator.

8. All building openings such as doors, windows and movable wall panels shall be closed but not locked. However, doors and service windows may be opened temporarily to allow passage.

Response: Management and staff will provide monitoring of the external doors being closed and not locked during business hours. They will also be aware of doors and service windows that may be opened temporarily.

9. No external speakers used for live entertainment or outdoor live entertainment activities will be permitted on the premises of a use which is located within five hundred (500) feet of a residential district shown on Table 14.100.A.

Response: No additional speakers will be added to the site except for a karaoke machine.

10. The owner and operator shall comply with all plans approved as part of the Conditional Use Permit.

Response: The owner will comply with all approved plans under the Conditional Use Permit per City of Scottsdale. In addition, the owner will stay up to date regarding changes or amendments that may occur.

11. All patron entrances shall be illuminated in accordance with the Building Code and the exterior lighting plans approved by the Development Review Board.

Response: Patron entrances are well lit and clearly visible from the parking lot and comply with the Building Code approved by the Development Review Board. Any updates will be clearly noted.

12. Noise generated from the live entertainment shall conform to the City's Noise Ordinance.

Response: Noise generated from live entertainment will conform to the City's Noise Ordinance. Noise will be confined to within the establishment and to the dedicated space allocated.

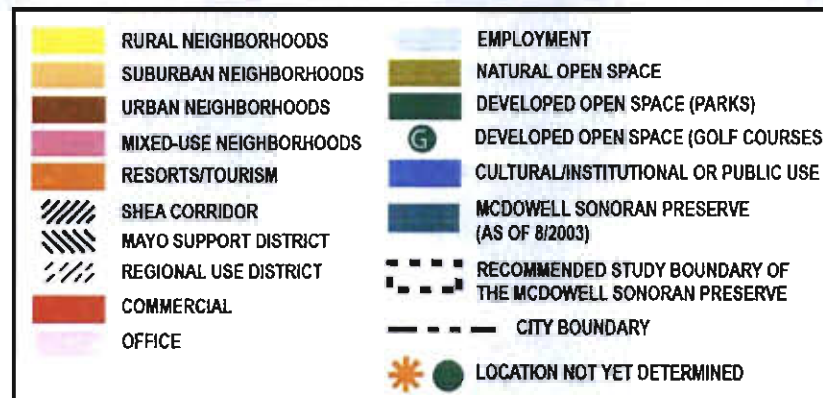
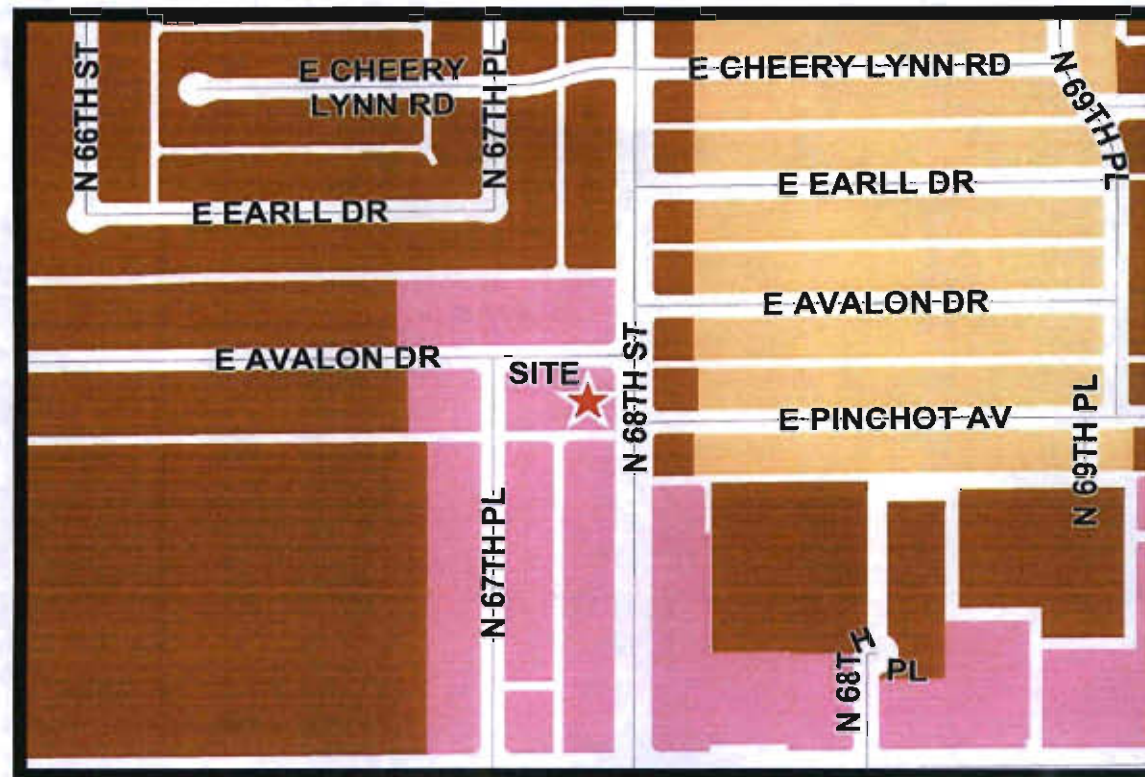


El Ranchero

19-UP-2012

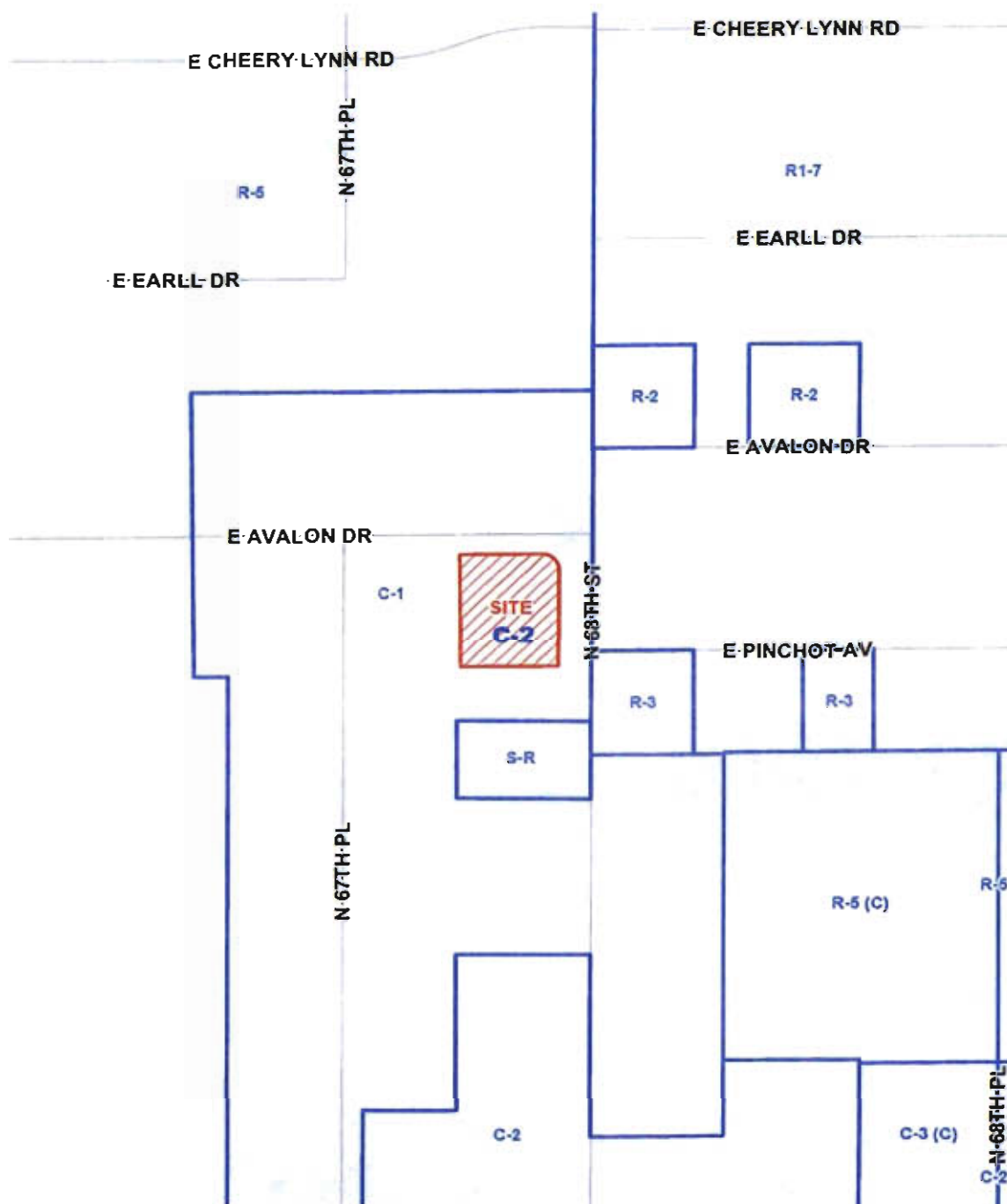
ATTACHMENT #5

Existing General Plan Land Use Map



19-UP-2012

ATTACHMENT #6



Community Input Certification

Open House Results

We had two open houses due to an error from the sign company posting the wrong day on the sign; Monday July 25, 2012. Since the sign company posted Monday (really the 23rd) when it was suppose to be Wednesday, we had open houses on both days with a decent showing of interested people. We had all people interested in knowing more about the project to see our location and tour the restaurant. We also explained the purpose of our request for a use permit for live entertainment, so they could see the vision we have as a restaurant. We also provide people with a piece of paper to voice their opinion either positive or negative. We did not receive any statements back from people who participated in our open house. Many of the comments we heard were positive ones. After a successful open house and forum, we feel our vision of this restaurants falls in line with what the community expects from local community based businesses.



July 9, 2012

Dear Neighboring Property Owner,

The purpose of this letter is to advise you of an application that has been submitted to City of Scottsdale for El Ranchero Traditional Mexican Food and More, located at 3030 N 68th St, in Scottsdale. El Ranchero is a family restaurant serving authentic Mexican food in a casual environment. El Ranchero is seeking a Use Permit to allow live music (karaoke and a mariachi band) in the establishment from the hours of 5pm to 8:30pm Monday-Friday and 12pm-12am on Saturday and 12-9pm on Sunday. There will be no additional amplification added to the restaurant and El Ranchero will continue to abide by the City of Scottsdale's noise ordinance.

El Ranchero is holding a neighborhood open house on Wednesday, July 25th from 5:00-7:00pm at our location 3030 N 68th St.. If you have any additional questions or you cannot attend the neighborhood open house and would like more information, please contact me, Rosario Cortez at 480-941-7755.

Sincerely,

Rosario Cortez
Managing Member
El Ranchero Traditional Mexican Food and More

Murillo, Jesus

From: Ruenger, Jeffrey
Sent: Wednesday, January 09, 2013 1:22 PM
To: 'jackie.griffin@phoenix.gov'
Cc: Murillo, Jesus; Castro, Lorraine
Subject: Public Comment

Hi Jackie,

You may submit your comments to our Planning Commission through our board and commission web page and the Project Coordinator. I have included a link below and I am copying the Project Coordinator on this email.

<http://www.scottsdaleaz.gov/boards/PC>

On the right side of the page there a link to email the Planning Commission members.

Regards
Jeff

From: Webmaster
Sent: Wednesday, January 09, 2013 7:58 AM
To: Planning Customer Relations
Subject: Feedback (response #591)

Feedback (response #591)

Survey Information

Site:	ScottsdaleAZ.gov
Page Title:	Feedback
URL:	http://www.scottsdaleaz.gov/Topics/Planning/feedback
Submission Time/Date:	1/9/2013 7:57:10 AM

Survey Response

Subject:	Conditional Use Permit for Live Entertainment
Comments/Questions:	Case# 19-UP-2012 I have received a postcard notifying me of a public meeting regarding the application submitted by El Rancho. The public meeting is scheduled for January 23, 2013 @ 5:00 pm. This meeting time makes it impossible to attend the meeting since I work until 5 p.m. as I believe most people do. I want to make my

comments known about this application since I live across the street from this business. Please tell me how I can make my comments known without having to take time off from my job and loose income. I look forward to your quick response. Thank you, Jackie

IMPORTANT! If you wish to have someone reply to you directly, please provide your contact information below (optional).

First Name	Jackie
Last Name	Griffin
Email Address	<u>jackie.griffin@phoenix.gov</u>
Phone Number	602-578-0197

Murillo, Jesus

From: Lebovitz, Brandon
Sent: Wednesday, January 09, 2013 2:49 PM
To: Castro, Lorraine; Cookson, Frances
Cc: Murillo, Jesus
Subject: FW: Planning Commission Public Comment (response #83)

From: Planning Commission
Sent: Wednesday, January 09, 2013 2:28 PM
To: Projectinput
Subject: Planning Commission Public Comment (response #83)

Planning Commission Public Comment (response #83)

Survey Information

Site:	ScottsdaleAZ.gov
Page Title:	Planning Commission Public Comment
URL:	http://www.scottsdaleaz.gov/boards/PC/comment
Submission Time/Date:	1/9/2013 2:27:16 PM

Survey Response

COMMENT

Comment:

Re: Case# 19-UP-2012 Thank you for the opportunity to let my comments be heard regarding this application for live music. I live directly across the street from this establishment, and have lived here over 20 years. I can appreciate the owner of this business wanting to provide entertainment for its customers; however I have first hand experience of what happens when live music is performed at this location. A business that was previously at this location had live music, and for me it was not a good experience. For well over two years, each time the live music played, it was so loud that I found it very difficult to hear my own television, even with all my doors and windows closed. At night, it was worse. I can't count how many times I would lie in bed, waiting for the music to stop or quiet down so that I could go to sleep. Most of the time I would wait until 10pm, then call the restaurant to ask that they

quiet the music so I could get some sleep before getting up early to go to work the next day. If the use permit is approved, I hope that there are some restriction that will define days of the week and specific hours when the music can be played. If the permit is approved without restrictions I am afraid that the experiences I had in the past will be repeated.

Comments are limited to 8,000 characters and may be cut and pasted from another source.

PLEASE PROVIDE YOUR NAME

First & Last Name: Jackie Griffin

ADD ONE OR MORE OF THE FOLLOWING ITEMS:

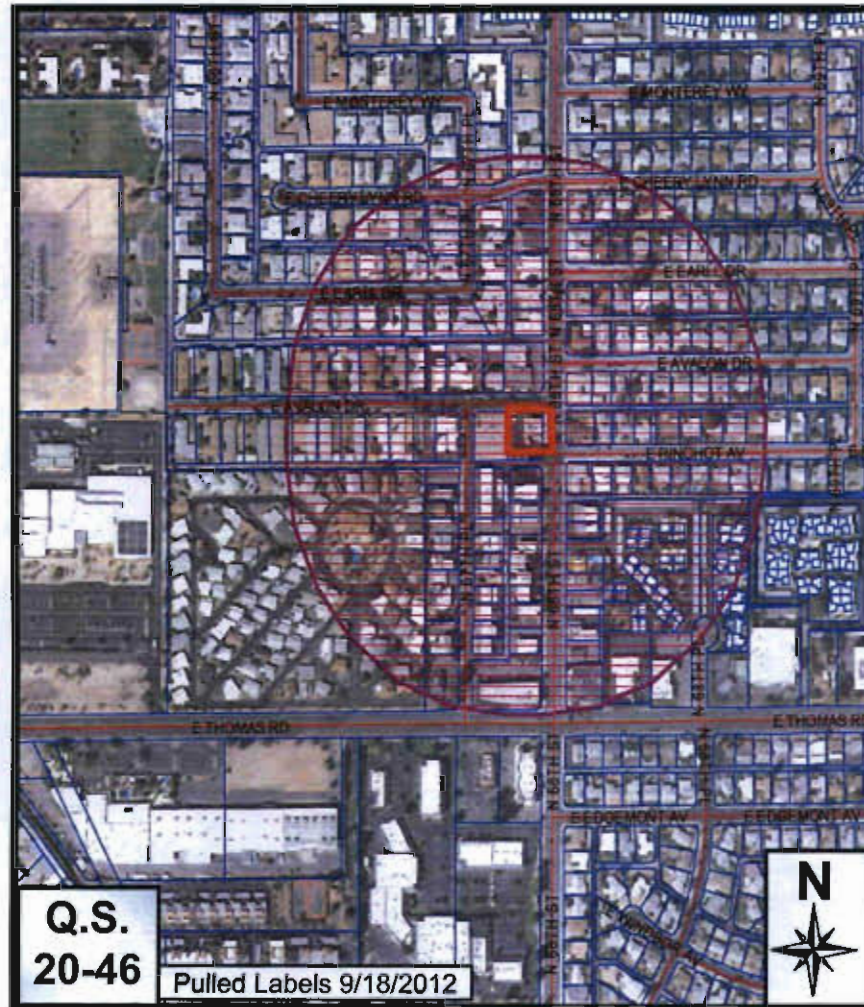
Email: jackie.griffin@phoenix.gov

Phone: 602-578-0197

Address: 6810 E. Pinchot Ave., Scottsdale AZ 85251

Example: 3939 N. Drinkwater Blvd., Scottsdale 85251

City Notifications – Mailing List Selection Map



Map Legend:



Site Boundary



Properties within 750-feet

Additional Notifications:

- Interested Parties List
- Adjacent HOA's
- P&Z E-Newsletter
- Facebook
- Twitter
- City Website-Projects in the hearing process

El Ranchero

19-UP-2012

ATTACHMENT #10



**SCOTTSDALE PLANNING COMMISSION
KIVA-CITY HALL
3939 DRINKWATER BOULEVARD
SCOTTSDALE, ARIZONA**

WEDNESDAY, JANUARY 23, 2013

DRAFT SUMMARIZED MEETING MINUTES

PRESENT: Michael D'Andrea, Chairman
Ed Grant, Vice-Chair
Erik Filsinger, Commissioner
David Brantner, Commissioner
Matt Cody, Commissioner
Jay Petkunas, Commissioner
Michael Edwards, Commissioner

STAFF: Tim Curtis
Sherry Scott
Brad Carr
Keith Niederer
Jesus Murillo
Erin Perreault
Adam Yaron

CALL TO ORDER

Chair D'Andrea called the regular session of the Scottsdale Planning Commission to order at 5:00 p.m.

* Note: These are summary action minutes only. A complete copy of the meeting audio is available on the Planning Commission website at:
www.scottsdaleaz.gov/boards/PC.asp

ROLL CALL

A formal roll call was conducted confirming members present as stated above.
Vice-Chair Grant left at 5:55 p.m.

MINUTES REVIEW AND APPROVAL

1. Approval of January 9, 2013 Regular meeting Minutes including Study Session.

COMMISSIONER FILSIGNER MOVED TO APPROVE THE JANUARY 9, 2013 REGULAR MEETING MINUTES, INCLUDING STUDY SESSION. SECONDED BY COMMISSIONER PETKUNAS, THE MOTION CARRIED UNANIMOUSLY WITH A VOTE OF SEVEN (7) TO ZERO (0).

EXPEDITED AGENDA

2. 23-UP-2012 (Verizon PHO Sundown)

Chris Schaffner provided comments.

3. 19-UP-2012 (El Ranchero)

Jane Bertram and Juan Daniel Ramirez provided comments.

4. 7-AB-2012 (Cochise Manor GLO Abandonment)

COMMISSIONER FILSINGER MOVED TO MAKE A RECOMMENDATION TO CITY COUNCIL, FOR APPROVAL OF CASES 23-UP-2012, 19-UP-2012 AND 7-AB-2012, PER THE STAFF RECOMMENDED STIPULATIONS, AFTER FINDING THAT THE CONDITIONAL USE PERMIT CRITERIA HAVE BEEN MET; SECONDED BY COMMISSIONER PETKUNAS.

* Note: These are summary action minutes only. A complete copy of the meeting audio is available on the Planning Commission website at:
www.scottsdaleaz.gov/boards/PC.asp

REGULAR AGENDA

5. 6-GP-2012 (Alta Scottsdale)

6. 11-ZN-2012 (Alta Scottsdale)

COMMISSIONER CODY MOVED TO MAKE A RECOMMENDATION TO CITY COUNCIL FOR APPROVAL OF CASES 6-GP-2012 AND 11-ZN-2012, INCLUDING THE DEVELOPMENT PLAN, PER THE STAFF RECOMMENDED STIPULATIONS AFTER DETERMINING THAT THE PLANNED UNIT DEVELOPMENT FINDINGS HAVE BEEN MET, AND AFTER DETERMINING THAT THE PROPOSED ZONING MAP AMENDMENT IS CONSISTENT AND CONFORMS WITH THE ADOPTED GENERAL PLAN, SECONDED BY COMMISSIONER PETKUNAS. THE MOTION CARRIED UNANIMOUSLY WITH A VOTE OF SEVEN (7) TO ZERO (0).

Thomas B. Re', Eric Brown, Pat Cruse, Jack Stein provided comments.

7. 5-GP-2012 (CVS Pharmacy – Scottsdale & McDonald)

8. 10-ZN-2012 (CVS Pharmacy – Scottsdale & McDonald)

COMMISSIONER BRANTNER MOVED TO MAKE A RECOMMENDATION TO CITY COUNCIL FOR APPROVAL OF CASES 5-GP-2012 AND 10-ZN-2012 PER THE STAFF RECOMMENDED STIPULATIONS, AFTER DETERMINING THAT THE PROPOSED ZONING MAP AMENDMENT IS CONSISTENT AND CONFORMS WITH THE ADOPTED GENERAL PLAN. SECONDED BY COMMISSIONER EDWARDS. THE MOTION CARRIED UNANIMOUSLY WITH A VOTE OF FIVE (5) TO ZERO (0). CHAIR D'ANDREA RECUSED HIMSELF.

Terry O'Neill, Leo Bauman, Patricia Ramsey, Andrew McLaren, Anthony Lanzo, Lanny Van Eman, Kay Pinckard-Hansen, Natalie Licciardi, Gary Meyers provided comments.

Lisa Marshall, Thomas Lucas, Robert McShane, Caryn McShane, Michael Marshall, Gary Shapiro, Catherine Robertson provided written comments.

ADJOURNMENT

With no further business to discuss, the regular session of the Planning Commission adjourned at 7:30 p.m.

* Note: These are summary action minutes only. A complete copy of the meeting audio is available on the Planning Commission website at:
www.scottsdaleaz.gov/boards/PC.asp

Murillo, Jesus

From: Bob Porter <bob@porterlaw.biz>
Sent: Thursday, January 31, 2013 6:05 PM
To: Murillo, Jesus
Subject: 19- UP- 2012 3030 N 68th St
Attachments: Towhomitmayconcern.pdf

Jesus---Thank you for calling. The email string below reflects the comments on last year's CUP, and the City's response. I'm also attaching a statement about the timing of this year's notice. Please send me the application and the record of the 1-23-13 commission meeting. Thank you.

Sincerely,

Bob

Robert S. Porter
Porter Law Firm
1819 E. Morten Suite 160
Phoenix, AZ 85020
Telephone: (602) 468-3540
Facsimile: (602) 277-4590
Email: bob@porterlaw.biz

From: Castle [<mailto:mlmmcastle@aol.com>]
Sent: Tuesday, January 29, 2013 5:44 PM
To: bob@porterlaw.biz
Cc: tim.pmg@sbcglobal.net
Subject: FW: (no subject)

From: Bloemberg, Greg [<mailto:Gbloemberg@scottsdaleaz.gov>]
Sent: Tuesday, September 04, 2012 1:14 PM
To: 'Mlmmcastle@aol.com'
Cc: bob@porterlaw.biz; tarahall@swdentalgroup.com; Murillo, Jesus
Subject: RE: (no subject)

Marshal,

Thanks for the feedback. To reiterate, there is currently no formal application on file for a live entertainment CUP at this establishment; only a preapplication file. Your concerns will be added to the preapplication file, and included in the public record should we receive a formal submittal from the applicant.

Regards,

Greg Bloomberg

Planner

Current Planning

City of Scottsdale

e-mail: gbloomberg@scottsdaleaz.gov

phone: 480-312-4306

From: Mlmmcastle@aol.com [<mailto:Mlmmcastle@aol.com>]

Sent: Tuesday, September 04, 2012 12:21 PM

To: Bloomberg, Greg

Cc: bob@porterlaw.biz; tarahall@swdentalgroup.com

Subject: (no subject)

Greg,

It was a pleasure talking to you this morning. I own the property directly west of/behind the property at 3030 N. 68th Street, which houses the El Ranchero Mexican Restaurant. I also own Southwest Dental Group, which is the next property behind that, on the other side of 67th Place. My employees notified me that they were shocked to see the early notification of project under consideration sign in front of the property last week. The sign says it was posted on 7-12-12 and that there was an open house meeting on 7-25-12.

I believe that the sign was put up very recently and not when it says it was posted. We have over 50 employees at that location, plus my son works at this office full-time. I am at our office quite frequently and certainly have driven by El Ranchero several times since July 12. We also have an employee who lives directly across 68th Street from the property requesting a CUP, and she is adamant that that sign has not been up until very recently.

We have been located in that office at 67th Place for almost 25 years. It is one of the busiest offices in our company, seeing over 2000 patients per month.

My staff and I have some serious concerns about the application for the CUP. We recall several years ago a shootout with a SWAT team at the CircleK during the afternoon, which highlights the fact that this area has had a history of questionable safety, especially in the early evening hours onward. The CUP requested is for live entertainment and karaoke, which may increase problems in the immediate area, such as encouraging alcohol consumption, noise, increase refuse, etc. This type of establishment would not be in keeping with the area, which is low-income residential and professional offices, as well as light retail and restaurant use.

We would want to be involved in this process as we have had burglary problems and unwelcome trespassing in our office area. Many of the businesses surrounding this property are medical/dental related, and we store drugs, an obvious magnet.

Please keep me informed. I appreciate the opportunity to help our neighborhood to develop in a positive direction.

Sincerely,

Marshal Castle

To whom it may concern:

My name is Carolyn Flannery, I work at Southwest Dental Group 3030 North 67th Place. Across the street from the Mexican Restaurant. I walk to work Monday-Friday. Each morning I pass the restaurant at 3030 North 68th street. I noticed on Monday(1/28/13) morning there was a big orange sign which had not been there before. It appears to have replaced a white sign about an early notification regarding a project. According to the new orange sign there was a meeting scheduled on 1/23/2013 at 5pm which I missed. I am concerned in any changes in this property which would cause noise and crowd, since I live and work close to the property.

Thank You,
Carolyn Flannery



REQUEST TO SPEAK

3

Request to Speak cards must be submitted to City Staff **BEFORE** public testimony begins.
Public testimony is limited to three (3) minutes per speaker.
Additional time **MAY** be granted to speakers representing two or more persons.
Cards for designated speakers and the person(s) they represent must be submitted together.

NAME (print) JANE BERTRAM MEETING DATE 1/23/2013

NAME OF GROUP/ORGANIZATION (if applicable) _____

ADDRESS 6825 E PINCHOT AVE SCOTTSDALE ZIP 85251

HOME PHONE 480-946-7335 ^{CELL} WORK PHONE 602-790-0245

E-MAIL ADDRESS (optional) _____

☒ I WISH TO SPEAK ON AGENDA ITEM # 3 ☐ I WISH TO DONATE MY TIME TO _____

☐ I WISH TO SPEAK DURING "PUBLIC COMMENT"* CONCERNING _____

*Citizens may complete one Request to Speak "Public Comment" card per meeting and submit it to City Staff. "Public Comment" time is reserved for citizen comments regarding non-agendized items. The Board and Commission may hear "Public Comment" testimony, but is prohibited by state law from discussing items which are not listed on the agenda.

This card constitutes a public record under Arizona law.